

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services**

In the matter of

XXXXX

Petitioner

File No. 86257-001

v

Blue Cross and Blue Shield of Michigan
Respondent

Issued and entered
this 14th day of January 2008
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On November 9, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the material submitted and accepted the request on November 19, 2007.

Because the appeal involved medical issues, the Commissioner assigned the case to an independent review organization (IRO), which provided its recommendations to the Commissioner on December 3, 2007.

II

FACTUAL BACKGROUND

The Petitioner received health care benefits from Blue Cross and Blue Shield of Michigan (BCBSM) under its Community Blue Group Benefits Certificate (the certificate). The Petitioner received inpatient substance abuse care at XXXXX, an alcohol and drug treatment facility in

XXXXX, from December 26, XXXX, until January 23, XXXX. BCBSM authorized and paid for her care until January 3, 2007, but denied coverage for the remainder of her stay at XXXXX.

The Petitioner appealed BCBSM's denial of coverage. After a managerial-level conference on September 5, 2007, BCBSM did not change its decision and issued a final adverse determination dated September 11, 2007.

III ISSUE

Did BCBSM properly deny coverage for the Petitioner's inpatient substance abuse care provided at XXXXX from January 4 through January 23, XXXX?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that after several years of trying to control her alcohol consumption, she realized she needed professional help. Beginning on July 19, XXXX, she entered XXXXX in XXXXX and received eleven days inpatient treatment. She then received after-care outpatient treatment arranged by XXXXX. In October XXXX she began to have slips which became frequent relapses. Her family and friends, as well as health care professionals, urged her to seek long-term inpatient substance abuse care and she agreed to go to XXXXX because she was desperate and feared for her life.

The Petitioner says the treatment she received at XXXXX helped change her life and was necessary in battling her disease. She argues that all her care at XXXXX was medically necessary and a covered benefit under her BCBSM certificate and she wants BCBSM to pay for it.

BCBSM's Argument

It is BCBSM's position that the Petitioner's inpatient admission at XXXXX was not a covered benefit under the certificate after the first eight days of care. BCBSM obtained the Petitioner's medical records from the facility and had them reviewed twice by its medical consultants to

determine if she met the criteria for inpatient mental health care as defined in the certificate. The conclusion of the two reviews was that the Petitioner did not meet the criteria for inpatient care after January 3, XXXX.

The certificate (page 7.13) indicates that hospital services are medically necessary when:

- The covered service is for the treatment, diagnosis or symptoms of an injury, condition or disease.
- The service, treatment, or supply is **appropriate** for the symptoms and is consistent with the diagnosis.
 - **Appropriate** means that the type, level and length of care, treatment or supply and setting is needed to provide safe and adequate care and treatment. For inpatient hospital stays, acute care as an inpatient must be necessitated by the patient's condition because safe and adequate care cannot be received as an outpatient or in a less intensified medical setting.

BCBSM's medical consultants reviewed the Petitioner's medical records and reported:

On admission to the residential treatment center she was not in danger of withdrawal and she was not placed on a detoxification protocol. Vital signs were stable and she had an unremarkable physical exam. Lab values were within normal limits. She had a psychiatric evaluation, which indicated her mood was really good, and displayed no significant neurovegetative symptoms of depression. She was not psychotic, suicidal or homicidal. The patient did not require the intensity of service of 24-hour medical supervision in a structured setting. She could have been treated safely and effectively at Intensive Outpatient Program or partial program level of care.

Based on this review, BCBSM determined that the Petitioner's substance abuse treatment did not meet its criteria for inpatient care after January 3, 2007.

Commissioner's Review

The Commissioner reviewed the certificate, the arguments and documents presented by the parties, and the report of the IRO. BCBSM argued that the Petitioner's inpatient substance abuse care was not covered because her condition did not warrant inpatient care after the first eight days of care at XXXXX. This meant, under the language of the certificates, that inpatient care was not

medically necessary.

The question of whether it was medically necessary for the Petitioner to be treated in an inpatient setting was presented to an IRO for analysis as required by Section 11(6) of PRIRA, MCL 550.1911(6). The IRO physician reviewer in this matter is certified by the American Board of Psychiatry and Neurology in the specialty of psychiatry, a member of the American Psychiatric Association, an associate medical director at an East Coast comprehensive behavioral health services facility, and in active practice.

The IRO reviewer noted that the Petitioner had been treated at various levels of care prior to her inpatient admission to XXXXX, including AA, outpatient, intensive outpatient, detoxification, inpatient and a residential stay. Despite these numerous levels of care she continued to drink alcohol. Both her marital therapist and her medical doctors recommended inpatient alcohol treatment. In addition, the IRO reviewer found that the medical records in this case indicate that the Petitioner had failed all other less intensive levels of care. Thus the IRO reviewer concluded that it was medically necessary and appropriate for the Petitioner to be treated at XXXXX as an inpatient from December 26, XXXX, until January 23, XXXX.

The IRO reviewer's recommendation is based on extensive expertise and professional judgment and the Commissioner finds no reason to reject it. Therefore, the Commissioner accepts the IRO reviewer's conclusion that the Petitioner's inpatient care at XXXXX was medically necessary from December 26, XXXX to January 23, XXXX. Based on that conclusion, the Commissioner finds that the Petitioner's inpatient substance abuse care from XXXXX is a covered benefit under her certificate.

V ORDER

Respondent BCBSM's September 11, 2007, final adverse determination is reversed. BCBSM is required to provide coverage for the Petitioner's inpatient care provided from January 4, 2007, through January 23, 2007, within 60 days and shall provide the Commissioner

with proof of payment no later than seven days after payment is made. Coverage shall be subject to any applicable terms and conditions of the certificate relating to inpatient substance abuse services.

Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.